

After reviewing the record and considering the arguments by the parties, the Appeals Board finds that the Order by the Special Administrative Law Judge should be affirmed. After a preliminary hearing held in December 1994, Administrative Law Judge James R. Ward ordered respondent to pay temporary total disability benefits and provide medical treatment. Respondent discontinued these benefits as of March 27, 1996. Claimant then filed an application for penalties and respondent filed a motion to terminate benefits. Respondent's motion was accompanied by a notice of intent and application for preliminary hearing. At the hearing held on May 29, 1996, the Special Administrative Law

Judge ordered an independent medical examination to determine whether claimant had reached maximum medical improvement or, in the alternative, needed additional medical care. The Special Administrative Law Judge appointed Dr. Jennifer E. Finley as the neutral physician pursuant to K.S.A. 44-516. When Dr. Finley recommended additional treatment, the Special Administrative Law Judge appointed Dr. Finley to provide treatment. Respondent contends the Special Administrative Law Judge exceeded his jurisdiction in entering the order for additional medical treatment. The question of penalties was not raised in this appeal.

As the briefs submitted by the parties acknowledge, the Appeals Board has limited jurisdiction when considering appeals from preliminary hearing orders. The Appeals Board considers the current appeal to be one from a preliminary hearing order. The hearing was, in fact, a continuation of the original preliminary hearing and dealt with continuation of the temporary total disability and medical benefit originally ordered. As the continuation of an earlier preliminary hearing, no additional benefit review conference was required.

The Appeals Board also considers the circumstance of this case to fit within the guidelines of earlier decisions relating to appointment of physicians by an administrative law judge. At the time of the hearing, respondent was not providing medical treatment. Under these circumstances an administrative law judge is not required to limit the authorized treatment to one of three physicians designated by respondent. The administrative law judge may select. Seymour v. Brewer's Country Mart, Docket No. 198,503 (October 1995). The Appeals Board also does not consider the appointment of the neutral physician to exceed the jurisdiction of an administrative law judge.

For the above and foregoing reasons, the Appeals Board finds that the appeal by respondent does not raise a jurisdictional issue. The appeal should be, and is hereby, dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of October 1996.

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BOARD MEMBER

c: John J. Bryan, Topeka, KS  
Jeffrey A. Chanay, Topeka, KS  
William F. Morrissey, Special Administrative Law Judge  
Bryce D. Benedict, Administrative Law Judge  
Philip S. Harness, Director